Calendar No. 131

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-78

AMENDMENTS TO ATLANTIC SALMON CONVENTION

MAY 9, 1983.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 925]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 925) to make certain technical corrections in the Atlantic Salmon Convention of 1982, having considered the same, report favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF BILL

The purpose of the bill is to make a technical correction to the Atlantic Salmon Convention Act of 1982 and to make a conforming amendment in that same act so that it is consistent with U.S. fishery law (specifically the Magnuson Fishery Conservation and Management Act).

BACKGROUND AND NEEDS

After Senate and House passage of the Atlantic Salmon Convention Act (ASCA) in 1982, it was discovered that the word "not" had been inadvertently dropped from the text of the bill in section 303 (c). The effect of this was to make the U.S. members of the Atlantic Salmon Commission Federal employees. The bill's intention was the exact opposite. Therefore, the word "not" is being inserted to insure that the U.S. Commissioners need not be Federal employees.

The bill also brings the Atlantic Salmon Convention Act into conformity with the latest amendments to the Magnuson Fishery Conservation and Management Act (MFCMA). Specifically, the penalty provisions contained in section 307(c) of the ASCA are made consistent with those in the MFCMA.

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Legislative History

S. 925 was introduced on March 24, 1983. It was the committee's judgment that hearings were not necessary.

On April 21, 1983, the full committee unanimously ordered the bill reported.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., April 26, 1983.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 925, a bill to make certain technical corrections in the Atlantic Salmon Convention Act of 1982, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, April 21, 1983.

Based on this review, it is expected that no additional cost to local, State, or Federal Governments would be incurred as a result of enactment of this bill.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee provides the following evaluation of the regulatory impact of the legislation, as reported.

Since the bill makes only technical and conforming changes to the Atlantic Salmon Convention Act there will be no regulatory, economic, privacy, or paperwork impacts.

Section-by-Section Analysis

The bill consists of two sections. Section 1 adds the word "not" to section 303(c) of the Atlantic Salmon Convention Act of 1982. This is being done to correct a technical error in the original act.

Section 2 amends section 307(c) of the Atlantic Salmon Convention Act to bring it into conformity with amendments to the Magnuson Fishery Conservation and Management Act. The MFCMA was amended after passage of the Atlantic Salmon Convention Act, and this change makes the two acts consistent.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 303(c) OF THE ATLANTIC SALMON CONVENTION ACT OF 1982

(c) Individuals who serve as Commissioners and alternate Commissioners shall not receive any compensation for such services. Such individuals shall *not* be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

SECTION 307(c) OF THE ATLANTIC SALMON CONVENTION ACT OF 1982

[(c) Any vessel used in the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).]

(c) Any vessel used, and any fish (or the fair market value thereof) taken or retained in any manner, in connection with or as the result of the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in, or such fish was taken or retained in connection with or as the result of, the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).

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Calendar No. 132

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-79

RAIL PASSENGER SERVICE ACT AMENDMENTS OF 1983

MAY 9, 1983.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1117]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1117) to amend the Rail Passenger Service Act to authorize additional appropriations for the National Railroad Passenger Corporation, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF BILL

It is the purpose of this legislation to provide the authorization of appropriations for the National Railroad Passenger Corporation [Amtrak] for fiscal years 1984 and 1985. Specifically, the bill is intended to provide for the maintenance of the existing national rail passenger system and to promote continued cost and service efficiencies and a control of Federal subsidies to the Amtrak system.

BACKGROUND AND NEEDS

Amtrak was created by legislation in 1970 as the national rail passenger system. At that time, it was envisioned that Amtrak would become a for-profit corporation. However, soon thereafter it became apparent that this would not be the case, and Congress began to search for the appropriate balance between national rail passenger needs and Federal budgetary control goals.

Concern over steadily increasing Federal subsidies to Amtrak and decreasing service efficiency in the Amtrak system culminated in the Amtrak Reorganization Act of 1979. With the intent to serve the most passengers nationally for the least amount of Federal dollars, the act

S 26314

restructured and streamlined Amtrak, putting in place the existing national route system. It also established certain financial and operational performance goals and criteria.

In 1981, concern was again raised about the cost efficiency of the Amtrak system. In particular, the administration proposed a significant reduction in Amtrak's Federal funds, which raised legitimate concerns about the reduced level of service that would result. The Commerce Committee and Congress rejected this proposal, remaining committed to the need to maintain a national rail passenger system. However, the committee and Congress also recognized the need to insure that Federal subsidies are minimized.

The Amtrak legislation incorporated in the Omnibus Budget Reconciliation Act of 1981 was the result of these views. That law provided the funds necessary to continue the national system and also mandated that Amtrak take all necessary actions to reduce its costs and minimize its Federal funding. Specifically, Amtrak was to attain a 50-percent revenue-to-cost ratio in fiscal 1982 and to meet other financial and operational goals to insure that the most, and best quality, service is provided at the lowest Federal cost.

The committee is encouraged by the significant progress which Amtrak has made since the passage of the 1981 legislation. Amtrak has met the 50-percent revenue-to-cost ratio. It has increased its revenues, even in the current depressed economy, and decreased its costs, particularly in the management and labor areas. The committee especially notes in this regard the monumental agreements recently negotiated by labor and management which make important work rule and productivity changes affecting both operating and nonoperating crafts.

In addition, Amtrak has increased by 14 percent over the last year the passenger miles served for each Federal dollar. With respect to its service, Amtrak has reached an 80 percent ontime performance level, and passenger complaints have dropped 67 percent in the last 2 years.

The committee believes that the 1981 legislation is being implemented as intended, and commends Amtrak management and labor for their significant efforts to insure a more cost- and service-efficient national rail passenger system. The reported legislation is intended to maintain this system and to promote its continued improvement.

SUMMARY OF COMMITTEE ACTION

On March 14, 1983, the Surface Transportation Subcommittee held a hearing to consider appropriate authorization levels for Amtrak for fiscal 1984 and 1985. It also considered Amtrak's current performance and a number of legislative changes proposed by the administration and Amtrak. Witnesses at the hearing included Senator Wallop from Wyoming and representatives of the administration, Amtrak, labor, railroad passengers, and the bus industry.

On April 20, 1983, Senator Danforth introduced on behalf of himself and Senators Packwood, Goldwater, Ford, Exon, and Riegle S. 1117, the "Rail Passenger Service Act Amendments of 1983." On the same day, Senator Danforth introduced by request of the administration, S. 1118, the "Amtrak Improvement Act of 1983."

On April 21, 1983, the full Commerce Committee met in open executive session to consider S. 1117. The committee by voice vote unanimously ordered the bill to be favorably reported with technical amendments.

Summary of Bill

AUTHORIZATION LEVELS

The reported bill authorizes appropriations for fiscal 1984 of $750 million and for fiscal 1985 of $800 million. These authorization levels will permit Amtrak to operate all of the routes it operates now, as well as meet its capital and labor protection requirements. At the same time, the committee believes that they will require Amtrak to continue to minimize its costs and to maximize its revenues.

In setting the authorization levels, the committee was guided by the recommendations forwarded to Congress by the administration and by Amtrak. The administration recommended that Amtrak be funded at $682 million for fiscal 1984 and $650 million for fiscal 1985. Amtrak recommended $800 million for both fiscal 1984 and 1985. The reported bill's authorization levels are higher than those of the administration and lower than Amtrak's for fiscal 1984. The variance is basically the result of the committee's treatment of the assumptions underlying the two recommendations.

The administration's recommendation assumed that funding to maintain Amtrak's current system could be reduced below what is required under existing law if the law were amended. Specifically, the administration recommended that the law be amended:

1. To require States to pay 100 percent of the costs associated with the 403(b) State-assisted trains;
2. To require States or local communities to pay 100 percent of the costs associated with the 403(d) commuter trains; and
3. To revise Amtrak's labor protection program along the lines instituted for other federally supported railroads like Conrail.

These changes would have resulted in annual savings of about $38 million.

The reported bill does not make the changes in law recommended by the administration. Accordingly, the authorization levels do not reflect the annual savings assumed by the administration. The committee does not believe this should be viewed as a rejection of the administration's goal of reducing Federal spending. Instead, the committee's action is based on its determination that the proposed amendments would have an adverse effect on important passenger operations, and that there are available other alternatives to those changes.

In particular, the committee believes that the proposed amendment on 403(b) trains would likely result in most, if not all, States cancelling their State-assisted trains. The National Governors Association, Amtrak, and other witnesses testified or submitted statements to this effect during the committee's hearings on Amtrak. These witnesses said that the States either could not afford the increased costs at this time or would be trapped by timing constraints due to budget cycles and legislative sessions. While Amtrak suggested that the timing problem could be alleviated if the law were amended to provide for a transition period, it should be noted that only 2 years ago the law was

changed to increase the State share, which does not actually go into effect until October 1, 1983. The committee believes that no additional changes in the law should be made until there is an assessment of the effect of the increase on those States with 403(b) service. This is not to say that Amtrak and the States could not enter into agreements that would increase the States' investment in the 403(b) trains, especially in the case of new service. For example, such agreements might provide for the States to pay all or part of the cost of labor protection in those instances where the States decide to discontinue 403(b) service.

The committee also believes the proposed amendment on 403(d) trains would likely have a negative effect. The National Governors Association said that the amendment would mean an end to most, if not all, such service. Further, a question was raised whether it was fair to require the States to pay 100 percent of the costs of these trains when the trains carried both intercity passengers and commuters. The committee believes that an agreed-upon cost sharing arrangement is probably more appropriate under such circumstances.

The proposed amendment on labor protection is not one that the committee views as necessary at this time. During the hearings, railroad labor testified that any changes in this area ought to be negotiated by the parties. Further, in responses to questions submitted for the record, labor indicated that while they opposed a change in the 30-mile limitation on employee transfers, they would be willing to discuss with Amtrak the possibility of modifying this provision. The committee is aware that labor and Amtrak met throughout 1981 and 1982 to discuss modifying the 30-mile limitation, but without success. This is not to say that some agreement in this area is not possible. Accordingly, the committee believes that the parties ought to resume negotiations, and that legislation be considered only after such negotiations have failed within a reasonable period of time to produce changes.

Amtrak's recommendation for fiscal 1984 funding assumed that Amtrak would be required to do additional track reconstruction work as a result of various congressional earmarkings from last year. These include:

1. Twenty-five million dollars for rehabilitation of trackage between Cincinnati, Ohio, and Indianapolis, Ind.;
2. Five million dollars for rehabilitation of trackage between Attleboro and Hyannis, Mass.;
3. Twenty million dollars for rehabilitation of trackage between Spuyten Duyvil and Penn Station, New York; and
4. Thirty million dollars for work displaced from the Northeast corridor improvement project [NECIP] as a result of NECIP funds being used for improvements of the line between Atlantic City, N.J. and Philadelphia, Pa.

The authorization levels in the reported bill reflect funding for only one of these projects—that at Spuyten Duyvil, which Amtrak testified it would do regardless of congressional directives. As for the other projects, it is the committee's understanding that a contingency on the Shelbyville project is likely to run out in June 1983, which would relieve Amtrak of the obligation to do this work. Further, Amtrak is unlikely to expend funds on the Hyannis project.

The work Amtrak testified would be displaced from the NECIP has essentially been funded separately as part of the recently passed jobs bill.

While it appears that certain of these earmarked projects either will not be completed or will be funded from non-Amtrak sources, the committee believes that these congressional earmarkings require some further comment.

The committee strongly opposes congressional earmarking of funds for Amtrak projects and service. The committee's opposition stems from its concern regarding the adverse effect that congressional earmarkings are likely to have on Amtrak's efforts to improve its existing system and its financial performance. Amtrak's budget is limited, and it should not be required to add expensive, new service at this time. Further, while Amtrak has not developed financial data on all the earmarked project routes, it is apparent that at least some of these routes would not meet statutory performance criteria and that their revenue-to-cost ratios would be below 50 percent. In the past, Amtrak has had to drop existing routes because they did not meet the performance criteria. Also, under the current law, Amtrak must recover systemwide 50 percent of its costs through revenues. In view of the foregoing concerns, the committee wishes to make clear that it intends to resist any future efforts to earmark funds for such projects.

DEBT RETIREMENT

The reported bill proposes to retire the outstanding debt which Amtrak owes the Federal Government. Without a modification to the existing obligation, Amtrak is required to pay almost $900 million in principal plus the accrued interest. The committee recommends legislation to relieve Amtrak of this obligation while continuing to protect the Government's financial investment in Amtrak.

Amtrak's outstanding debt represents loans made by the Federal Government between 1971 and 1976, with the view that Amtrak would become profitable and could repay the loans. Beginning in 1976, however, it became clear that Amtrak would not become profitable and would need continued Federal operating grants. Given this reality, Congress was faced with the problem of an outstanding debt which could not be repaid from Amtrak's revenues.

Various alternatives were pursued for dealing with this debt. Two appropriations were made to Amtrak in 1978 and 1979 to draw down the obligation, an alternative not pursued thereafter, as Congress became increasingly concerned about the amount of Federal funds provided Amtrak. Thus, the unpaid interest on the remaining principal continued to accrue, and to avoid a default its payment was deferred.

During its deliberations on the 1981 Amtrak legislation, the committee realized that a permanent solution to dealing with this debt was long overdue, a conclusion reached earlier by the General Accounting Office [GAO] in its 1980 report on this issue.

The committee also realized that, at a time of budgetary concern and fiscal restraint, continued deferral of interest payments and additional appropriations to cover the obligation were obviously not satisfactory long term solutions. Thus, while the 1981 legislation deferred

interest payments through the end of fiscal 1983, it mandated that by February 1982 the Department of Transportation [DOT], in consultation with Amtrak, the Treasury Department, and the GAO, submit legislative recommendations to Congress for relieving Amtrak of its debt.

No recommendation from the administration has been forthcoming, even after a further request from both the Senate Commerce and Budget Committees in a letter to the DOT dated June 29, 1982. Thus the committee, after carefully reviewing prior studies and proposals and consulting with interested parties, has arrived at its own recommendation.

Specifically, the committee proposes that the debt be retired by the end of fiscal 1983 through the issuance of preferred stock to the Federal Government equal to the amount of the debt and interest. In recommending this solution, the committee has considered but rejected the suggestion of the 1980 GAO report that the debt be retired through a one-time appropriation to Amtrak for repayment of the debt and interest. The committee does not believe that in the current budgetary climate, GAO's approach is feasible without in effect reducing the funds available to operate the Amtrak system. Because of its commitment to providing the funds necessary to maintain the current national system, the committee believes that the issuance of preferred stock is an appropriate solution which is compatible with its transportation goals.

The committee is aware of the concerns raised by the Federal Financing Bank that the issuance of preferred stock resolves an on-budget obligation through an off-budget mechanism. However, the committee believes that there is no other practical solution, short of default or total forgiveness of the debt. Furthermore, it notes that its proposals, rather than being a new idea, is consistent with the 1981 Amtrak legislation, which mandated the issuance of preferred stock to the Federal Government in the amount of all past and future operating and capital grants to Amtrak. The issuance of preferred stock is a recognized way of protecting the Federal Government's interest.

In making this recommendation, the committee reiterates the intent expressed in the conference report accompanying the 1981 Amtrak legislation that any resolution of Amtrak's outstanding debt not be viewed as establishing a precedent for the general treatment of Federal loans. The committee believes that Amtrak's situation is unique in that its financial needs and its relationship with the Federal Government have changed since its creation. The committee believes that its recommendation is tailored to the specific problems presented by Amtrak and its debt, balancing the need to fund a national system within the current fiscal constraints and the need to preserve the integrity of the Federal Government's prior investments in Amtrak.

COMMUTER SERVICE

The reported bill amends section 403(a) of the Rail Passenger Service Act regarding Amtrak's operation of six communter trains through Illinois, Indiana, Michigan, New Jersey, New York, Pennsylvania, and West Virginia. Under the present section, Amtrak is required to operate these trains if they meet the current criterion for

short-distance trains of 80 passenger miles per train mile [pm/tm]. The committee recommends a change in this requirement to provide the opportunity for a greater contribution by the affected localities to the operation of these trains.

The administration submitted a proposal to the committee which would have mandated that the localities cover the total costs of operating these commuter trains. Amtrak, while not directly commenting at the committee hearings on this proposal, suggested the importance of creating incentives for the affected localities to negotiate alternative arrangements for operating this service.

The committee is concerned that Amtrak, as an intercity passenger system, not be required to cover all the costs of operating this commuter service. However, the committee also recognizes the importance of these trains to the commuters served. Accordingly, the reported bill provides for the continued operation of these trains if they meet an avoidable loss per passenger mile of 9 cents—the performance standard for short-distance trains under the reported bill. If this criterion is not met, Amtrak can cease operating the train unless the affected locality agrees to an arrangement insuring that this criterion is met. This amendment represents a fair compromise between the need to minimize the losses covered by Federal funds and the need to retain this service.

PERFORMANCE CRITERIA

The reported bill would amend subsections (c) and (d) of section 404 of the Rail Passenger Service Act to eliminate the statutory criterion on passenger miles per train mile [pm/tm]. With this amendment, each route in Amtrak's basic system would continue to be required to meet the statutory criterion on short term avoidable loss per passenger mile. The committee recommends this change because it believes that loss per passenger mile is the most useful measure of train performance.

Under the current law, each Amtrak route is required to meet both the miles per train mile and short-term avoidable loss criteria. If a route is projected not to meet these criteria, Amtrak must discontinue, modify, or adjust the service over the route so that the criteria will be met.

Two years ago, the Senate Commerce Committee recommended as part of the Amtrak Improvement Act of 1981 that both criteria be eliminated. At that time, the committee thought that the criteria were "arbitrary and failed to take account matters which normally would be considered by management." (S. Rept. No. 97–96.) As a followup to that 1981 proposal, the committee asked Amtrak to comment for this year's hearing record on whether the criteria should be repealed.

In his response, Mr. Graham Claytor, President of Amtrak, recommended that the criterion on avoidable loss per passenger be retained and the criterion on passenger mile per train be eliminated. Specifically, he said:

> The 404(d) criteria have served a valuable purpose by setting a standard of cost effectiveness which Amtrak routes must meet. I would not wish to eliminate such standards altogether. I do, however, have considerable doubt as to the utility of the passenger mile/train mile criterion. This is a

> volume standard, not a cost-effectiveness standard, and tells us very little about the efficiency of the train. It would be easy to meet the passenger mile/train mile criterion or any train anywhere simply by lowering fares sufficiently. A far more appropriate criterion for the cost-effectiveness of a train is loss per passenger mile. I would retain this criterion and might indeed tighten it.

The committee believes that Mr. Claytor makes a good case for eliminating the passenger mile/train mile criterion while retaining the criterion on avoidable loss per passenger mile. This latter measure is clearly the more useful measure, because it requires Amtrak to take into account both revenues and ridership on any one route. Further, it supplements the systemwide performance standard applicable to Amtrak, which measures the system's ratio of revenues to costs.

FREEDOM OF INFORMATION ACT

The reported bill clarifies the application of the Freedom of Information Act (FOIA) to Amtrak's activities. Under section 306(g) of the Rail Passenger Service Act, Amtrak is fully subject to FOIA. The committee recommends an amendment, insuring that Amtrak continues to be covered within the spirit of FOIA but without suffering unintended competitive harm.

The Freedom of Information Act provides for the access to information gathered by governmental agencies and entities. There are various exceptions to the information accessible, including one exempting information "obtained from a person" (5 U.S.C. 552(b)(4), which has been judicially interpreted to mean from a source outside the agency. This exemption is intended to prevent entities from using FOIA to gain an unfair advantage over competitors. The committee recommends a modest amendment to the Rail Passenger Service Act to insure that this exemption applies to similar corporate information which Amtrak generates internally—the type of documentation which is to be protected from FOIA requests.

This amendment is not meant to make a special exception for Amtrak under FOIA but instead to conform FOIA as applied to other governmental entities to Amtrak's unique position. Unlike a governmental agency, Amtrak is a corporation which competes in the marketplace. Thus, unlike an agency it generates sensitive information to which its competitors should not have access—an exemption already recognized under the act and logically extended to this information. Furthermore, the proposal makes clear that Amtrak can only protect its trade-secret and commercial or financial information if it proves, as must other entities subject to the act, that such information is either privileged or confidential; that is, that disclosure would cause Amtrak substantial competitive harm.

The proposal is consistent with the overall purpose of FOIA and with the committee's intent that Amtrak be able to operate and compete as other businesses. The committee will continue to closely monitor the use of FOIA as it relates to Amtrak to insure that the act is not abused and that Amtrak does not suffer unintended competitive harm.

ROUTE AND SERVICE CRITERIA

The committee notes Amtrak's proposal for change in its criteria and procedures for making route and service decisions. Pursuant to section 404(c)3(b) of the Rail Passenger Service Act, Amtrak has submitted these proposals to Congress separately from the reported legislation. Under that section, the proposed amendments take effect unless disapproved by either House of Congress within 60 calendar days of continuous session after submission. The committee anticipates no action to disapprove these proposals and thus expects them to be effective as of May 7, 1983.

The committee believes that the amendment proposed by Amtrak will make a positive contribution to the ability of Amtrak to adjust routes and services to meet changing transportation needs. While retaining the substantive considerations and procedural safeguards of the original criteria submitted by Amtrak in 1975, the changes provide a more streamlined and workable process consistent with the financial and operational goals established by Congress in recent Amtrak legislation.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the committee provides the following costs estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 2, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1117, the Rail Passenger Service Act Amendments of 1983.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 2, 1983.

1. Bill number: S. 1117.
2. Bill title: Rail Passenger Service Act Amendments of 1983.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, April 21, 1983.
4. Bill purpose: The bill would authorize the appropriation of $750 million in fiscal year 1984 and $800 million in fiscal year 1985 for the National Railroad Passenger Corporation [Amtrak]. The authorization for 1984 is 7 percent higher than the current appropriation of $700 million in 1983, and 10 percent higher than the President's request of

$682 million for 1984. The bill also gives Amtrak more flexibility in negotiating agreements with States for the operation of commuter trains, by allowing Amtrak to discontinue commuter trains which do not meet the criterion on short-term avoidable loss. A second criterion currently specified in the Rail Passenger Service Act for judging route performance, passenger miles per train mile, would be eliminated altogether by the bill.

In addition, the bill would restructure Amtrak's liabilities by permitting Amtrak to issue preferred stock to the Federal Financing Bank [FFB] to repay the full amount in principal and interest owed to the Government from the $880 million of outstanding guaranteed loans. Several sections of the Rail Passenger Service Act pertaining to reporting requirements are amended or repealed by the bill. One such example is a requirement for monthly and semiannual reports, which is replaced by a mandated annual report containing route-by-route data and other information.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1984	$750
1985	800
1986	---
1987	---
1988	---
Estimated outlays:	
Fiscal year:	
1984	700
1985	797
1986	53
1987	---
1988	---

The costs of this bill fall within budget function 400.

The basis of estimate: In estimating outlays from the bill, CBO assumes that the full amounts authorized will be appropriated prior to the beginning of the fiscal years for which they are authorized. Costs are estimated on the basis of the program's historical spending pattern. Operating funds and labor protection grants, which are estimated by Amtrak to comprise approximately 87 percent of the 1984 budget, are projected to be expended in the year in which they are appropriated. Capital expenditures historically spend at a slower rate, and would result in some outlays in the year following that in which the appropriation was made.

The conversion of the outstanding loans to preferred stock issued by Amtrak to the Federal Financing Bank has no direct budget impact. In the absence of this action, however, the 2-year moratorium in Amtrak's interest payments, which was established by the Amtrak Improvement Act of 1981, would have to be extended, or Amtrak would be required to pay approximately $200 million at the beginning of fiscal year 1984 to service the debt. Unless additional funds were appropriated to Amtrak's operating subsidy to cover the interest payments, the agency would likely default on the loans.

6. Estimated cost to State and local governments: Amtrak estimates that only one or possibly two commuter routes would fail to meet the criterion on avoidable loss in 1984. However, in the event that Amtrak chooses to discontinue these trains as a result of the increased flexibility

provided in the bill, States wishing to maintain the service would be required to subsidize the trains to insure that the criterion is met. The total cost to the two or three States involved, assuming that they would choose to continue the routes is estimated to be approximately $3 million.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by Kathleen Kelly.
10. Estimate approved by

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee provides the following evaluation of the regulatory impact of the legislation: The committee hereby states that the reported bill will not increase the number of persons regulated or increase the cost of regulation to any persons. The bill provides Amtrak with greater privacy by amending the Rail Passenger Service Act to exempt from Freedom of Information Act requests information generated by Amtrak that is a trade secret or of a commercial or financial nature. The bill also reduces paperwork for Amtrak and the Secretary of Transportation by eliminating some reports and consolidating others. Similarly, the bill reduces paperwork for the GAO by eliminating the annual requirement that it perform a performance audit of Amtrak; the bill would make such audits discretionary.

SECTION-BY-SECTION ANALYSIS

SECTION 1—TITLE

This section provides that the act may be cited as the "Rail Passenger Service Act Amendments of 1983."

SECTION 2—PREFERRED STOCK

Subsection (a) of this section amends section 303(a) of the Rail Passenger Service Act to provide that the two members of the Amtrak Board of Directors who are selected by the preferred stockholder (the Federal Government), shall serve until their successors are appointed. The law now provides that other members of Amtrak's Board shall serve until their successors are appointed. The amendment makes the law consistent.

Subsection (b) amends section 304(c) of the Rail Passenger Service Act to permit Amtrak to restate its books and tax returns for years prior to fiscal 1982 as if preferred stock had actually been issued in the years when it received certain capital grant funds. This amendment is necessary to remove an uncertainty as to the reporting of depreciation of the assets acquired with such capital grants.

Subsection (c) amends section 602(k) of the Rail Passenger Service Act to provide for the issuance by Amtrak of additional preferred stock to the Federal Financing Bank [FFB] in amounts sufficient to

retire Amtrak's debt to the FFB. This amendment is necessary to allow Amtrak to eliminate the debt it incurred between 1971 and 1975. During that period, Amtrak financed its capital improvements through loans guaranteed by the Federal Government. In 1976, Congress started providing direct grants when it recognized that Amtrak would never be profitable enough to repay the $900 million in loans. In 1980, Congress questioned the annual appropriation of funds to enable Amtrak to pay interest on the debt. The Amtrak Improvement Act of 1981 deferred payment of the interest for 2 years pending a permanent solution to the debt question. This amendment provides for such a solution.

SECTION 3—PERFORMANCE REPORTS

Subsection (a) repeals section 305(l) as no longer necessary. Amtrak routinely gathers and submits to Congress performance data irrespective of the section repealed herein.

Subsection (b) amends section 308(a) of the Rail Passenger Service Act to provide for an annual report to Congress that includes certain important route-by-route financial and operational data and other information. This report consolidates and replaces the monthly and semiannual reports now required to be submitted by Amtrak.

SECTION 4—DIVERSITY JURISDICTION

This section amends section 306(m) of the Rail Passenger Service Act to specify that Amtrak shall be considered a citizen "only" of the District of Columbia for purposes of determining original jurisdiction in Federal district courts. Amtrak has continued to encounter arguments that it can still be considered a citizen of other jurisdictions, and that therefore diversity jurisdiction in Federal courts does not exist. The amendment clarifies the original intent of the law.

SECTION 5—RAIL SERVICE PERFORMANCE

Subsection (a) amends section 403(d) of the Rail Passenger Service Act to provide that if a commuter train operated under this section does not meet the criterion for short-distance trains of a 9-cent short-term avoidable loss per passenger mile, Amtrak may discontinue the train, unless the State or States involved enter into an agreement which insures that this criterion is met. Under the current law, Amtrak must operate these trains if they meet the 80 passenger mile per train mile criterion for short-distance trains currently in the law—a criterion which is being eliminated in other subsections of this section. This amendment is intended to give Amtrak more flexibility to negotiate individual agreements with the localities served by these trains to cover some of the losses associated with this service.

Subsections (b) through (d) amend sections 404 (c) and (d) of the Rail Passenger Service Act to eliminate the criterion on passenger mile per train mile. Under this amendment, Amtrak will still be required to review each of its routes annually but based on the short-term avoidable loss per passenger mile criterion alone.

SECTION 6—FREEDOM OF INFORMATION

This section amends section 306(g) of the Rail Passenger Service Act to provide that for purposes of the Freedom of Information Act (FOIA), trade secrets and commercial or financial information prepared by Amtrak shall be considered as having been "obtained from a person." Section 306(g) subjects Amtrak to FOIA as any Federal agency. That act provides for certain exceptions, including one for trade secrets and financial information "obtained from a person" by a Federal agency. As a corporation and unlike a Federal agency, Amtrak generates its own trade secrets and financial information, which would technically not be covered by that exception and which clearly could be used to the unintended advantage of competitors. This amendment clarifies that Amtrak can protect this information from FOIA requests under that exemption.

SECTION 7—AUTHORIZATION OF APPROPRIATIONS

This section amends section 601(b) of the Rail Passenger Service Act to authorize funding for Amtrak of $750 million in fiscal 1984 and $800 million in fiscal 1985.

SECTION 8—MISCELLANEOUS PROVISIONS

Subsection (a) amends section 306(a)(3) of the Rail Passenger Service Act to strike an obsolete reference to the Interstate Commerce Act.

Subsection (b) repeals section 306(k) of the Rail Passenger Service Act, which deals with a study the Interstate Commerce Commission was required to do back in 1977.

Subsection (c) repeals section 402(g) of the Rail Passenger Service Act, which requires Amtrak to enter into an industrywide agreement with respect to the operation of charter and special trains. Neither Amtrak nor the operating railroads have been able to come up with such an agreement. In the meantime, Amtrak has been contracting for charter and special trains on an ad hoc basis, which has proved satisfactory. The repeal of this provision means that Amtrak will continue to handle such trains on an ad hoc basis.

Subsection (d) amends section 805(2)(A) of the Rail Passenger Service Act to eliminate the requirement that the General Accounting Office perform an annual performance audit of Amtrak. With this amendment, such audits will be discretionary.

Subsection (e) repeals section 806 of the Rail Passenger Service Act, which deals with a report the Secretary of Transportation was required to do back in 1973.

Subsection (f) repeals section 810 of the Rail Passenger Service Act, which deals with a study the Secretary of Transportation was required to do back in 1980.

Subsection (g) repeals section 811 of the Rail Passenger Service Act, which requires Amtrak to submit an annual report to Congress on the ratio of revenue to operating expenses on each of its routes. This report is not necessary, because the same information would be

contained in the new report provided for by section 3(b) of the reported bill.

Subsection (h) repeals section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976, which requires Amtrak and the Secretary of Transportation to submit annual reports on the progress of the Northeast corridor improvement project. These reports are time consuming and not necessary.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Rail Passenger Service Act

Section 303 of That Act

Sec. 303. Directors and Officers

(a)(1) The Corporation shall have a board of directors consisting of nine individuals who are citizens of the United States, as follows:

(A)-(D) * * *

(E) Two members selected annually by the preferred shareholders of the Corporation, which members shall be selected as soon as practicable after the first issuance of preferred stock by the Coropration *and shall serve until their successors have been appointed.*

(2)-(8) * * *

(b)-(d) * * *

Section 304 of That Act

Sec. 304. Financing of the Corporation

(a)-(b) * * *

(c) (1)-(2) * * *

(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.

(d)-(e) * * *

Section 305 of That Act

Sec. 3. General Powers of the Corporation

(a)-(k) * * *

[(*l*) The Corporation shall establish a Performance Evaluation Center within the Corporation which shall have the responsibility of providing an ongoing review of operations. The Center should evaluate both short-term and long-term operational problems and make recommendations for improvement of operations. Each six months, the Corporation shall submit a report of the Center's activities and recommendations to the appropriate authorizing committees of both Houses of Congress and to the Secretary.]

(m)-(n) * * *

Section 306 of That Act

Sec. 306. Applicability of the Interstate Commerce Act and Other Laws

(a) The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act and shall be subject to all provisions, including the provisions of section 22(1) of the Interstate Commerce Act other than those pertaining to—

(1)–(2) * * *

(3) regulation of routes and service and [, except as otherwise provided in this Act,] the discontinuance or change of passenger train service operations; and

(4) * * *

(b)–(f) * * *

(g) The Corporation shall be subject to the provisions of section 552 of title 5, United States Code, *except that trade secrets and commercial or financial information prepared by the Corporation shall be considered as having been "obtained from a person" under section 552 (b) (4) of title 5, United States Code.*

(h)–(j) * * *

[(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

[(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

[(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

[(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

[(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

[(5) methods of formulating joint fares and divisions thereof;

[(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

[(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.]

(l) * * *

(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection with the performance of such activities, the Corporation shall accept service of process addressed by certified mail to the secretary of the Corporation at its principal office and place of business in Washington, District of Columbia. The Corporation shall be deemed to be a citizen *only* of the District of Columbia for the

purpose of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is party.

(n) * * *

Section 308 of That Act

Sec. 308. Reports to the Congress

[(a) (1) Not later than the 45th day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

[(A) Total itemized revenues and expenses.

[(B) Revenues and expenses attributable to each railroad.

((C) Repealed.)

[(2) Not later than the fifteenth day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

[(A) The average number of passengers per day on board each train operated.

[(B) The on-time performance at the final destination of each train operated, by route and by railroad.]

(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.

(b)-(c) * * *

Section 402 of That Act

Sec. 402. Facility and Service Agreements

(a)-(f) * * *

[(g) The Corporation shall enter into a contract with rail carriers on an industrywide basis to establish rights for the operation of special or charter trains between specific routes and points anywhere in the Nation upon provision of reasonable notice (of not less than seven days) to the carriers involved in the operation of any special or charter trains, except that with respect to rail lines on which rail passenger service has not been operated for the preceding 180 days, reasonable notice under this sentence shall be notice of not more than 21 days. If the Corporation and the rail carriers are unable to reach agreement by January 1, 1981, the Commission shall, upon application by the Corporation, order rail services to be provided under this subsection and shall, consistent with just and reasonable compensation principles, determine within 180 days after such date the proper amount of compensation for the provision of such services and the proper method of prior notification of the schedule and routing of a special or charter train by the Corporation.]

(h) * * *

Section 403 of That Act

Sec. 403. Service

(a)-(c) * * *

(d) Beginning October 1, 1981, the Corporation shall continue to operate rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the [criteria set forth in section 404(d)(2)(B)] *criterion set forth in 404(d)(2)* of this Act, after taking into account projected fare increases and any State or local contributions to such *service. Beginning October 1, 1983, if such service is not projected to meet such criterion, the Corporation may discontinue such service, unless the Corporation and a State (or States) enter into an agreement which ensures that the criterion will be met.* Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the day prior to the effective date of the Amtrak Improvement Act of 1981.

Section 404 of That Act

Sec. 404. Service Changes

(a)-(b) * * *

(c)(1)-(3) * * *

(4)(A) * * *

[(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet the criteria set forth in the appropriate paragraph, the Corporation shall discontinue, modify, or adjust the operation of rail passenger services over such route so that the criteria will be met.]

(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criterion will be met.

(C)-(f) * * *

(5) * * *

(d)(1) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger services over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrack Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to miantain a national intercity rail passenger system, [if—] *if*

[(A)] the short term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile [; and

(B) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.] . Short term avoidable loss per passenger mile calculated by the [Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss [and passenger mile per train] shall be calculated in the same manner for all routes. The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data adjusted to reflect the most recent available statistics. [The Corporation shall, no later than 30 days after the effective date of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committtee on Commerce, Science, and Transportation of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.]

(2) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any short-distance route section 4 of the Amtrak Improvement of 1978 with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, [if—] *if*

[(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 9 cents per passenger mile [; and (B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.].

((e) Repealed.)

(f)–(8) * * *

Section 601 of That Act

Sec. 601. Authorization for Appropriations

(a) * * *

(b)(1) * * *

(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

(A) not to exceed $735,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; [and]

(B) not to exceed $788,000,000 for the fiscal year ending September 30, 1983, of which not more than $26,000,000 shall be used for payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) o fthis Act[.] ;

(C) not to exceed $750,000,000 for the fiscal year ending September 30, 1984; and

(D) not to exceed $800,000,000 for the fiscal year ending September 30, 1985.

Section 602 of That Act

Sec. 602. Guarantee of Loans

(a)–(j) * * *

[(k) Before February 1, 1982, the Department of Transportation, in consultation with the General Accounting Office, the Corporation, and the Department of the Treasury, shall submit to the Congress legislative recommendations for how best to relieve Amtrak of its debt to the Federal Government.]

(k) (1) On and after September 30, 1983, the Corporation may issue preferred stock at par value to the Federal Financing Bank in order to—

(A) repay principal and interest owed to the Federal Financing Bank;

(B) fund the obligations of the Corporation under leases guaranteed by the Secretary pursuant to subsection (a) of this section; and

(C) fund the acquisition by the Corporation of title to any cars or locomotives under such leases.

(2) The Federal Financing Bank shall accept such preferred stock either in full payment of principal and interest owed by the Corporation, or—

(A) as total consideration for funding the obligations of the Corporation under leases guaranteed by the Secretary pursuant to subsection (a) of this section; or

(B) for funding the acquisition by the Corporation of title to any cars or locomotives under any such leases.

(3) While the United States (or any agency or instrumentality of the United States) holds such preferred stock, the Secretary shall exercise the rights of the United States as a shareholder of the Corporation.

(4) The authority of the Secretary to guarantee obligations of the Corporation under this section shall expire upon satisfaction by the Corporation, as provided in this subsection, of all obligations guaranteed by the Secretary under this section.

Section 805 of That Act

Sec. 805. Records and Audit of the Corporation and Certain Railroads

(1) (A) * * *

(2) (A) The Comptroller General of the United States [shall] *may* conduct [annually a] performance [audit] *audits* of the activities and transactions of the Corporation in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such [audit] *audits* shall be conducted at such place or places as the Comptroller General may deem appropriate. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial and other transactions and necessary to facilitate the [audit] *audits*, and they shall be afforded full facilities for verifying transactions with the balances or securities held by de-

positories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(B) To the extent the Comptroller General deems necessary in connection with audits as he may make of the financial transactions of the Corporation pursuant to paragraph (A) of this subsection, his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any railroad with which the Corporation has entered into a contract for the performance of intercity rail passenger service, pertaining to such railroad's financial transactions and necessary to facilitate the [audit] *audits*, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such railroad shall remain in the possession and custody of the railroad.

(C) * * *

Section 806 of That Act

Sec. 806. Report by Secretary of Transportation

[(a) The Secretary shall, on or before March 15, 1973, transmit to the Congress a comprehensive report on the effectiveness of this Act in achieving and promoting intercity rail passenger service and on the effectiveness of the Corporation in implementing the purposes of this Act. Such report shall include an evaluation by the Secretary of the intercity rail passenger service operations assumed by the Corporation including, but not limited to, adequacy and effectiveness of services, on-time performance, reservations and ticketing, scheduling, equipment, fare structures, routes, and immediate and long-term financial needs.

[(b) In addition to the general evaluation and assessment required under subsection (a) of this section, the report by the Secretary shall include—

[(1) recommendations for the orderly assumption by the Corporation of the operation and control of all aspects of its intercity rail passenger service, including the performance by the Corporation of all full-time functions solely related to the intercity rail passenger service provided by it under this Act;

[(2) an assessment of whether the board of directors of the Corporation adequately and fairly represents the members of the public who utilize intercity rail passenger services and, if necessary, recommendations for appropriate changes in the composition of such board of directors;

[(3) estimates of potential revenues for the Corporation from the transportation of mail and express on intercity passenger trains;

[(4) a detailed analysis of the on-time performance of intercity rail passenger service operations assumed by the Corporation, together with such recommendations as the Secretary may deem advisable to eliminate delays in such intercity rail passenger service operations caused by freight train operations;

[(5) recommendations with respect to the establishment of the optimum intercity rail passenger service system as soon as possible

after July 1, 1973, taking into account economic feasibility, requirements as to public convenience and necessity, and the ability of the Corporation to provide adequate service over the total system, which optimum system shall include recommended routes and discontinuances; and

[(6) recommendations with respect to the improvement of tracks and roadbeds on routes over which the Corporation operates intercity passenger trains.

[(c) Such report shall contain such additional recommendations as the Secretary may deem advisable to assist the Corporation in carrying out the purposes of this Act, including recommendations for legislative enactment or administrative actions which would enable the Corporation, after July 1, 1973, to discontinue more rapidly and efficiently those routes which do not meet the criteria recommended by the Secretary for the establishment of the optimum intercity rail passenger service system.

[(d) In carrying out the provisions of this section, the Secretary may use available services and facilities of other departments, agencies, and instrumentalities of the Federal Government with their consent and on a reimbursable basis.

[(e) Departments, agencies, and instrumentalities of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the provisions of this section.]

Section 810 of That Act

Sec. 810. State Taxation Study

[The Secretary shall conduct a study of the payment of taxes by the Corporation to State and local governments, including the payment of property taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other user fees, and any other taxes paid by the Corporation to such governments, and shall make recommendations to the Congress no later than January 1, 1980, concerning the advisability of relieving the Corporation, either in whole or in part, of its obligation to make such payments. In conducting such study, the Secretary shall consider—

[(1) the requirement that the Corporation be operated and managed as a for-profit corporation;

[(2) the certainty that the Corporation will need substantial Federal subsidies for the foreseeable future;

[(3) the demand by States and localities for continued and increased federally funded rail passenger service;

[(4) the benefit to States and localities of rail passenger service directly funded by the Federal Government; and

[(5) the importance to the Nation of maintaining an efficient and reliable rail transportation system.]

Section 811 of That Act

REVENUE REPORT

[SEC. 811. Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to operating expenses on all routes in the basic

system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.]

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Section 703 of that act

REQUIRED GOALS

SEC. 703. The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals to the extent compatible with the amount of authorizations specified in section 704 of this title:

(1) INTERCITY RAIL PASSENGER SERVICES.—(A)–(C) * * *

[(D) The submission by the Secretary and the National Railroad Passenger Corporation to the Congress of annual reports on progress achieved and work in progress and planned (including the need for further improvements) with respect to the completion of this program, including an up-to-date accounting of intercity passenger ridership, revenue from such ridership, expenses, and on-time dependability of intercity passenger trains in the Northeast Corridor.]

(E) * * *

(2)–(7) * * *

O